

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-31, all of which have been rejected. By this Amendment, claims 1, 11, and 21 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,553,100 ("Chen"), in view of U.S. Patent № 6,694,352 ("Omoigui"). The Applicant respectfully traverses these rejections at least based on the following remarks.

### **REJECTION UNDER 35 U.S.C. § 103**

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

**I. The Proposed Combination of Chen and Omoigui Does Not Render Claims 1-31 Unpatentable**

The Applicant now turns to the rejection of claims 1-31 as being unpatentable over Chen in view of Omoigui. The Applicant notes that the proposed combination of Chen and Omoigui forms the basis for all of the pending rejections.

**A. Rejection of Independent Claim 1 under 35 U.S.C. § 103(a)**

With regard to the rejection of independent claim 1 under 103(a), the Applicant submits that the combination of Chen-Omoigui does not disclose or suggest at least the limitation of “automatically routing said generated message to a location that is remote

from said first geographic location, based on a prior authorization level established by a user command, wherein said routing is performed prior to communicating said generated message to any device within said first geographic location," as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

With respect to Claim 1, the claimed "receiving, at a first geographic location, an alert from a first device coupled to the communication network" is met by Chen et al. that teach the use of an intelligent processor (100) in receiving an alert from alarm event detectors (510,520) via a network (200) at a 1st geographic location, i.e. a subscribers' home (Abstract; Fig. 1&5; col. 1, lines 17-19; col. 1, lines 54-55; col.2; lines 27-32; col.5, lines 51-54; &col.9, lines 47-48). The claimed "generating within a home; a message corresponding to said received alert;" is met by Chen et al. that teach the generation & transmittal by an intelligent processor (100), located on-premise, of an alert message to a user's television (310,320) located with a subscribers' home (Fig.5; col. 1, lines 61-67; col.6, lines 40-48; col.8, lines 46-53; &col.9, lines 54-57). **The claimed "routing said generated message to a location that is remote from said first geographic location, based on a prior authorization level established by a user command" is met in part by Chen et al. that teach that if no acknowledgement is received in response to an alert transmitted to on-premise devices (330,340), the intelligent processor (100) attempts to alert the user at off-premise devices (410,420, 430) that are located at a remote location from 1st geographic location (col. 4, lines 51-57).**

See the Final Office Action at pages 2-3. Chen discloses an intelligent alerting system that receives a notification and alerts end-users via one or more devices (on-premises or off-premises devices). Chen's system also includes a processor (100 in FIG. 1) that determines whether any of these devices are active for purposes of communicating the alert. See Chen at col. 1, lines 17-29. Referring to FIGS. 2-3 of

Chen, the Applicant points out that the processor 100 uses an alert destination determination device 170, which determines whether or not to transmit the alert to an on-premise or off-premise device. More specifically, Chen discloses that **if no acknowledgement is received in response to an alert transmitted to on-premise devices (330 and 340), the processor 100 attempts to alert the user at the off-premises devices (410, 420, and 430).** *See id.* at col. 4, lines 51-59. In this regard, **the alert is not transmitted automatically to the off-premises devices.** Put another way, **the transmission of the alert to the off-premises device is performed only after the alert is transmitted to the on-premises device and no response (acknowledgement) from a user is detected at the on-premises device.** Therefore, Chen does not disclose “wherein said routing is performed prior to communicating said generated message to any device within said first geographic location,” as recited in Applicant’s claim 1. Omoigui does not overcome this deficiency of Chen.

Furthermore, the alert destination determination device 170 may use profiles that indicate where the user can be reached by a given device. *See id.* at col. 7, lines 57-65. In this regard, Chen does not disclose any routing of a generated message (notification) to a location that is remote from the first geographic location (i.e., where the alert is received at), **based on a prior authorization level established by a user command.** In fact, Chen does not disclose that the notification routing is in any way influenced or based on any user commands. The Applicant notes that Chen’s user profile used with regard to device 170 simply stores pre-determined user locations and it has nothing to

do with setting up authorization levels established by a user command. The Examiner states the following:

The Chen et al. reference is silent with respect to routing said alert to a remote location "based on a prior authorization level established by a user command". However, in the same field of endeavor, Omoigui teaches a method for enabling user to register for notifications pertaining to electronic presentations of interest whereby a user is able to influence the notification routing by specifically indicating the notification method to be used: Le. Email, Fax, Pager, Other (Fig.8; Abstract; col. 13, lines 34.,47). The Examiner further points out that the claimed "authorization lever" has been given the broadest reasonable interpretation in light of the specification and viewed as being binary (either allowing or not allowing an alert to be routed to a remote location) as taught by the Omoigui reference.

See the Final Office Action at pages 3-4. The Applicant respectfully disagrees. The Examiner is reminded that "based on a prior authorization level established by a user command" (in Applicant's claim 1) further conditions the act of automatic routing of the alert (message) to the off-premises device. Omoigui relates to specifying the method of notification and it does not relate to conditioning the act of notifying. Therefore, the Applicant submits that Omoigui does not overcome any of the deficiencies of Chen.

Even if we assume, for the sake of argument, that "authorization level" is indeed interpreted as being binary (either allowing or not allowing transmission of the alert), the Applicant submits that the Examiner's argument is still deficient. As already explained above, once Chen determines that the user is not responding at the on-premises device, **the alert has to be communicated to the off-premises device** since this is the only other alternative for notifying the user. **After it is determined that a user has**

**to be notified at the off-premises device, such notification cannot be further conditioned as there is no other alternative remaining for notifying the user of the alert.**

Therefore, the Applicant maintains that the combination of Chen-Omoigui does not disclose or suggest at least the limitation of “automatically routing said generated message to a location that is remote from said first geographic location, based on a prior authorization level established by a user command, wherein said routing is performed prior to communicating said generated message to any device within said first geographic location,” as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Chen and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the reference cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-10, 12-20, and 22-31**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 103(a) as being anticipated by Chen has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20, and 22-31 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-10, 12-20, and 22-31.

*In general, the Final Office Action makes various statements regarding claims 1-31 and the cited references that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).*

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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